

Bill in Congress Would Allow Employees to Request Changes to Schedules

By Garen E. Dodge

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A bill introduced in the U.S. Senate would require employers to consider their employees' requests for changes to their work schedules and to provide more predictable and stable schedules for employees in certain occupations with evidence of unpredictable and unstable scheduling practices. The Schedules That Work Act, [S.1772](#), also would require employers to make, keep, and preserve records of compliance with the Act, and post a notice in the workplace explaining employees' rights under the Act. An identical bill, [H.R.3071](#), also was introduced in the House of Representatives.

The bill, introduced by Senator Elizabeth Warren (D. Mass.), provides that an employee may apply to his or her employer to request a change in the terms and conditions of employment as they relate to:

1. the number of hours the employee is required to work or be on call for work;
2. the times when the employee is required to work or be on call for work;
3. the location where the employee is required to work;
4. the amount of notification the employee receives of work schedule assignments; and
5. minimizing fluctuations in the number of hours the employee is scheduled to work on a daily, weekly, or monthly basis.

The employer, according to the bill, shall engage in a timely, good faith interactive process with the employee that includes a discussion of potential schedule changes that would meet the employee's needs. This interactive process would result in the employer:

1. granting or denying the request;
2. if the request is denied, considering alternatives to the proposed change that might meet the employee's needs and granting or denying a request for an alternative change; and
3. in the event of a denial, stating the reason for denial, including whether any such reason is a bona fide business reason.

The Schedules That Work Act also would require employers to provide restaurant, retail, and building cleaning employees with reporting time pay, split shift pay, and advance notification of work schedules.

The Act would not apply to any employee covered by a bona fide collective bargaining agreement if the terms of the collective bargaining agreement include terms that govern work scheduling practices.

The Act also authorizes the Secretary of Labor to bring a civil action to enforce the Act.

This federal legislation comes on the heels of multiple "fair scheduling" bills that have been introduced in the states and other localities. In San Francisco, for example, the Retail Worker Bill of Rights became operative on July 3, 2015.

This is only a brief summary of the proposed law. If you have any questions, please contact the Jackson Lewis attorney with whom you regularly work.

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